



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. T. J. Crowe, Secretary
Texas State Board of Medical Examiners
Mercantile Building
Dallas, Texas

Dear Sir:

Opinion No. 0-1979

Re: Authority of the Texas State Board
of Medical Examiners to issue a ver-
ification license to practice medi-
cine under the facts as stated.

We are in receipt of your letter of recent date requesting our opinion touching the Board's authority to issue what is termed a "verification license" under the following facts. It appears that one W. W. Moore was issued a certificate of satisfactory examination and right to practice medicine in 1897, by the Board of Examiners of the 8th Judicial District of Texas, which certificate was recorded in the office of the district clerk of Hopkins County, Texas, presumably the county of such practitioner's residence or sojourn. This procedure was as regulated by the laws of Texas in force at the time, which laws are contained in the Revised Statutes of 1895, Article 3777 et seq., and Article 438, et seq., of the Penal Code. It further appears from your letter that W. W. Moore is not a graduate of a medical college, and has not complied with any regulatory statute enacted subsequent to the date of his original qualification, touching the practice of medicine in Texas.

Under Articles 3777 - 3789, inclusive, Revised Statutes of 1895, there were created district boards of medical examiners, corresponding to the several judicial districts of the state, with the duty of examining all applicants for certificates of qualification to practice medicine (Art. 3784, supra), whereupon, "when the board shall be satisfied as to the qualifications of an appli-

cant, they shall grant to him a certificate to that effect, which certificate shall entitle the person to whom granted to practice medicine * * * " (Art. 3785, supra).

These provisions of the Revised Statutes of 1893 were brought forward from the Revised Statutes of 1879 and consisted of the Acts of 1875, 1876, 1877 and 1879. Hence in the year 1897, Moore was entitled to practice medicine on the certificate of the District Board of Medical Examiners.

In 1901, the Twenty-seventh Legislature repealed the above statute, but in section 8 of the repealing Act provided for an exemption from its provisions in the following language:

"Sec. 8. From and after the passage of this amendment it shall be unlawful for any person to practice medicine, surgery, or obstetrics in this state except: First, All those who were practicing medicine in Texas prior to January 1, 1885. Second. All those who began the practice of medicine in this state after the above date who have complied with the laws of this state regulating the practice of medicine in force prior to the passage of this Act. * * * " (Acts 1901, 27th Leg., ch. 12, p. 12).

Subsequently, the Thirtieth Legislature in 1907 enacted a more comprehensive Act regulating the practice of medicine, creating a State Board of Medical Examiners, providing various regulations, and repealing all laws and parts of laws in conflict therewith.

Sec. 6 of the 1907 Act, which does not appear in subsequent amendatory acts or codifications of the statutes, provided:

"Within one year after the passage of this Act, all legal practitioners of medicine in this state, who, practicing under the provision of previous laws or under diplomas of a reputable and legal college of medicine, have not already received license from a state

medical examining board of this state, shall present to the Board of Medical Examiners for the State of Texas, documents or legally certified transcripts of documents sufficient to establish the existing license heretofore issued by previous examining boards of this state, or exemptions existing under any law, and shall receive from said board verification license which shall be recorded in the district clerk's office in the county in which the licentiate may reside * * *

Section 15 of the Act provided that all certificates issued by any board of medical examiners of the state, under any former law, should continue in full force and effect for one year after the Act took effect; and further provided that any person practicing medicine within the state under the provisions of existing laws, or any exceptions thereto, when the Act took effect, could continue to practice for one year thereafter without compliance with the provisions thereof.

In order, therefore, for E. M. Moore, under the facts as stated by you, to have complied with the provisions of the 1907 Act, he must have within one year after it became effective, presented to the State Board of Medical Examiners the valid and existing license issued by the District Board of Medical Examiners with evidence of the recording thereof or legally certified transcripts of documents sufficient to establish the existence or validity of such license; whereupon, the State Board of Medical Examiners would have issued to him a verification license.

This Moore did not do. Now, however, approximately 35 years later, he presents such to the State Board of Medical Examiners, with his application for the issuance to him of a verification license whereby he may practice medicine in Texas. Hence the question: Is the State Board of Medical Examiners authorized to issue such license?

We think unquestionably not. There are no provisions in the 1907 Act, or in subsequent amendatory Acts thereto, or in the present statutory law of Texas, au-

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thorizing the State Board of Medical Examiners to issue a verification license to an individual who did not, within one year after the effective date of the 1907 Act, take the necessary steps before the State Board of Medical Examiners and receive therefrom a verification license. Moreover, Moore not only has failed to comply with the 1907 Act, but he would possess neither the requirement of the present law that medical practitioners be graduates of bona fide, reputable medical schools, nor that of having successfully passed examination before the State Board of Medical Examiners, nor that of having registered with the State Board of Medical Examiners in the manner required by Article 4493a, Vernon's Annotated Civil Statutes (Acts 1931, 42nd Leg., p. 55, ch. 37, § 3).

In holding that the Texas State Board of Medical Examiners is without authority to issue a verification license to M. M. Moore, under the facts as outlined in your letter, we are in accord with an opinion of this department, during the administration of Hon. R. V. Davidson, under date of July 15, 1907 wherein it was held that the verification license provided for in the 1907 Act must have been issued, after proper application therefor, within one year from the effective date thereof.

You are accordingly advised that it is the opinion of this department that the Texas State Board of Medical Examiners, under the facts as stated, would be without authority to issue to the applicant, M. M. Moore, a verification license to practice medicine in Texas.

Trusting that we have adequately answered your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED FEB 27, 1940

By

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Gerrit B. Mann

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